

UNITED STATES COURT OF APPEALS June 18, 2010

FOR THE TENTH CIRCUIT Elisabeth A. Shumaker  
Clerk of Court

---

JUSTIN JOSEPH RUEB,

Plaintiff - Appellant,

v.

ARISTEDES ZAVARAS; SUSAN  
JONES; EUGENE ATHERTON;  
ROBERT ALLEN; C. BARR;  
DENNIS BURBANK; ANTHONY  
DECESARO; JIM GENTILE; SUE  
GRISENTI; M. HILDEBRAND;  
CARL HOLDITCH; C. MAY;  
DONICE NEAL; R. OLIVETT;  
LARRY REID; WILLIAM RICHTER;  
C. ROY; KEN SALAZAR; JOHN  
SUTHERS; G. VENDETTI; D.  
WILLIAMS; H. WILLIAMS,

Defendants - Appellees.

No. 10-1209  
(D.C. No. 1:09-CV-02817-REB-MEH)

---

**ORDER**

---

Before **BRISCOE**, Chief Judge; **KELLY** and **O'BRIEN**, Circuit Judges.

---

Plaintiff Justin Rueb appeals the district court's order adopting the recommendation of the magistrate judge that his motion for a temporary restraining order be denied. We directed the plaintiff to show cause as to why this appeal should not be dismissed for lack of jurisdiction. He filed a response.

At our direction, the defendants also filed a response. Upon consideration of these pleadings and the applicable law, we dismiss the appeal.

An order expressly denying an injunction is immediately appealable. 28 U.S.C. § 1292(a)(1); *Utah ex rel. Utah St. Dept. of Health v. Kennecott Corp.*, 14 F.3d 1489, 1496 (10th Cir. 1994). The same holds true for an order having the “practical effect” of denying an injunction. *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 287-88 (1988). But an order denying a temporary restraining order is generally not appealable. *Office of Pers. Mgmt. v. Am. Fed’n of Govt. Employees*, 473 U.S. 1301, 1303-04 (1985); *Populist Party v. Herschler*, 746 F.2d 656, 661 n.2 (10th Cir. 1984).

The pleadings filed in the district court, the proceedings held there, and the responses filed in this court lead to only one conclusion: the district court’s order denied a temporary restraining order and nothing more. As such, the order is not immediately appealable.

Accordingly, this appeal is dismissed for lack of jurisdiction. All other relief requested by the plaintiff in this court is denied.

Entered for the Court,  
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read "Lara Smith".

by: Lara Smith  
Counsel to the Clerk